

REMARKS

Claims 1-22 were pending as of the Office Action of May 13, 2008. Claims 11-20 are withdrawn. Claim 1 is amended with this Response. Claim 22 is cancelled with this Response.

Rejections under 35 U.S.C. §103(a)

Claims 1-10 and 21-22 have been rejected under 35 U.S.C. §103(a) as being obvious over United States Patent No. 6,005,073 to Hultin ("Hultin" hereinafter) in view of NPL to Van Zile ("Van Zile" hereinafter). Applicant respectfully traverses this rejection.

For an obviousness rejection to be proper, the Examiner must meet the burden of establishing that all elements of the invention are disclosed in the prior art and that the prior art relied upon, coupled with knowledge generally available in the art at the time of the invention, must contain some suggestion or incentive that would have motivated the skilled artisan to modify a reference or combined references. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988); *In Re Wilson*, 165 U.S.P.Q. 494, 496 (C.C.P.A. 1970); *Amgen v. Chugai Pharmaceuticals Co.*, 927 U.S.P.Q.2d, 1016, 1023 (Fed. Cir. 1996).

In addition, if an obviousness rejection is to be proper, the cited references must have a date that qualifies the reference as prior art.

With the above in mind, Applicants first note that Van Zile does not have a publication date that qualifies the reference as prior art over Applicants' claims. On the contrary, Applicants' claims have a priority date of March 26 2002, while Van Zile was apparently published during a later conference in December 2003. Thus, any 102/103 rejection including Van Zile is improper and overcome.

Applicants additionally note that claim 1 has been amended to recite, *inter alia*:

"wherein said initial pulp is washed to obtain a washed pulp containing a residual fraction of lipids and sarcoplasmic proteins comprised between 0.1 and 3% of the weight of the pulp."

With Van Zile respectfully disqualified as a 103 reference, Applicants note that Hultin does

not teach a washed pulp containing a residual fraction of lipids and sarcoplasmic proteins comprised between 0.1 and 3% of the weight of the pulp. On the contrary, referring to the Brief Description and column 4, lines 17-, Hultin teaches a Ph solubilizing of lipids and sarcoplasmic proteins. As such, the solution of Hultin is certainly not taught to include lipids and sarcoplasmic proteins at the percentages claimed by Applicants. Applicants note that a pulp with a presence of lipids and sarcoplasmic proteins as claimed is beneficial for reasons discussed at paragraphs 0037, 01538, 0139, 0152, and 0153.

Accordingly, for at least the reasons set forth above, Applicants respectfully assert that the proposed combination of Van Zile and Hilton is improper as a prior art rejection, and does not teach every element of Applicants' amended claim 1, or claims 2-10 and 21 that depend therefrom. Accordingly, Applicants respectfully submit that *prima facie* obviousness does not exist regarding claims 1-10 and 21 with respect to the proposed combination of Van Zile and Hilton. Since the proposed combination of Van Zile and Hilton fails to teach or suggest all of the limitations of claims 1-10 and 21, clearly, one of ordinary skill at the time of Applicants' invention would not have a motivation to modify the reference, or a reasonable likelihood of success in forming the claimed invention by modifying. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Claim 10 has also been rejected under 35 U.S.C. §103(a) as being obvious over Hultin in view of Van Zile and WO 01/62888 to Shah ("Shah" hereinafter). Applicants respectfully traverse this rejection.

Claim 10 depends from claim 1. Thus for at least the reasons set forth above, the proposed combination of Hultin and Van Zile is improper as a prior art rejection, and does not teach every element of Applicants' amended claim 10. As Shah does not remedy the deficiencies of the proposed combination of Hultin and van Zile, Applicants respectfully submit that *prima facie* obviousness does not exist regarding claim 10 with respect to the proposed combination of Van Zile, Hilton, and Shah. Since the proposed combination of Van Zile, Hilton, and Shah fails to teach or suggest all of the limitations of claim 10, clearly, one of ordinary skill at the time of Applicants' invention would not have a motivation to modify the reference, or a reasonable likelihood of success in forming the claimed invention by modifying. Thus, here again, *prima facie* obviousness does not exist. *Id.*

Conclusion

Applicants believe that all of the outstanding objections and rejections have been addressed herein and are now overcome. Entry and consideration hereof and issuance of a Notice of Allowance are respectfully requested.

Applicants hereby petition for any extension of time under 37 C.F.R. 1.136(a) or 1.136(b) that may be necessary for entry and consideration of the present Reply.

If there are any charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 06-1130 maintained by Applicants' attorneys.

The Office is invited to contact Applicants' attorneys at the below-listed telephone number concerning this Amendment or otherwise regarding the present application.

Respectfully submitted,
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